

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

HARRELL KING,

PLAINTIFF

V.

NO. 2:04CV345-WAP-EMB

**WARDEN COOK, WARDEN BRADLEY,
CHIEF BROWN, LIEUTENANT DICKSON,
LIEUTENANT PAULER & JOHN DOE**

DEFENDANTS

FINAL JUDGMENT DISMISSING CERTAIN DEFENDANTS

On consideration of the file and records in this action, a hearing having been conducted by the magistrate judge pursuant to 28 U.S.C. §636(b)(1)(B), Local Rule 72.D and *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985), the Court finds that the Report and Recommendation of the United States Magistrate Judge dated April 18, 2005, was on that date duly served by regular mail upon the *pro se* plaintiff; that more than ten days have elapsed since service of said Report and Recommendation; and that no objection thereto has been filed or served by any party. The Court is of the opinion that the magistrate judge's Report and Recommendation should be approved and adopted as the opinion of the court. It is, therefore

ORDERED:

1. That the Report and Recommendation of the United States Magistrate Judge dated April 18, 2005, is hereby approved and adopted as the opinion of the Court.

2. That plaintiff's claims against Defendants Warden Cook, Warden Bradley, Chief Brown, Lieutenant Dickson and John Doe are dismissed with prejudice for failure to state a claim; and that only plaintiff's excessive force claim against Lieutenant Pauler shall be allowed to proceed.

3. That the case is referred to the magistrate judge for further proceedings not inconsistent with this order.

THIS, the 21st day of June, 2005.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE